

Leroy D. Baca, Sheriff

County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



February 5, 2013

Deputy Richard Rubalcaba, #[redacted]

Dear Deputy Rubalcaba:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of twenty (20) days.

An investigation under IAB File Number 2311420, conducted by Court Services East Bureau, coupled with your own statements, has established the following:

1. That in violation of the Department's Manual of Policy and Procedures, [redacted]; and/or [redacted]; and/or [redacted], on or about April 17, 2012, while off duty, you failed to maintain a level of moral conduct in your personal affairs when you contacted [redacted] and agreed to pay her monies in exchange for sexual acts. You allowed [redacted] to enter into your personal vehicle, and/or touched her breast, and/or allowed her to touch your clothing which covered your penis for the purposes of consummating an act of prostitution. You were detained and then arrested by Compton Sheriff's Station personnel for [redacted], in violation of [redacted] Your act of loitering by driving along Long Beach Boulevard in the city of Compton, California with the intent of contacting a prostitute, and/or engaging the services of a prostitute, damaged the Department's reputation, eroded the public's confidence in the Department, and/or brought discredit to yourself or the Department.

2. That in violation of Manual Sections 3-01/040.70, False Statements; and/or 3-01/040.75, Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations, on or about September 13, 2012, you admitted that on or about September 6, 2012, you were "untruthful" and made false statements during a Department internal investigation. On or about September 6, 2012, You also failed to make full, complete or truthful statements during a Department internal investigation as evidenced by, but not limited to the following:

   a. stating you did not know that prostitutes frequented the area of Long Beach Boulevard during the hours in which you contacted [redacted] and/or words to that effect, and/or;

   b. stating you contacted [redacted] to initiate a personal relationship and invite her to "get tacos," and/or words to that effect, and/or;

   c. stating you did not know that [redacted] was a prostitute, and/or words to that effect, and/or;

   d. stating "That's correct," when asked if your interaction with [redacted] was not for the purposes of paying for sex, and/or;

   e. stating "That's correct," when asked if you did not ask [redacted] for sex, and/or;

   f. stating "No," when asked if [redacted] performed any sexual acts with you prior to being detained and arrested, and/or;

   g. stating "No," when asked if you agreed on a price with [redacted] to have her perform oral sex or a "blow job" on you.

Additional facts and grounds for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of the incident has been made by Department executives, including your Unit and Division Commanders.

Deputy Richard Rubalcaba, #[redacted]

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Anselmo C. Gonzalez, Captain
Commander, Court Services East Bureau

ACG:AEA:md

c: Advocacy Unit
Employee Relations Unit
Richard J. Barrantes, Chief, Court Services Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2311420)

CASE SUMMARY

Subject Richard J. Rubalcaba is a Deputy Sheriff of twelve years and was assigned to Compton Court for approximately two weeks at the time of the incident. On Tuesday, April 17, 2012, at 1650 hours, Subject Rubalcaba got off work and drove approximately 1.2 miles northeast of the Compton Courthouse to north Long Beach Boulevard and Palmer Street, where he saw Witness [redacted] walking by herself along the sidewalk. Witness [redacted] is an admitted prostitute with an extensive criminal history for prostitution arrests. Neither Subject Rubalcaba nor Witness [redacted] knew one another prior to this incident.

Subject Rubalcaba pulled alongside Witness [redacted] in his vehicle and engaged her in a conversation regarding sex. Witness [redacted] got into Subject Rubalcaba's vehicle, where she then touched Subject Rubalcaba's penis and he touched her breast. Subject Rubalcaba said he allowed Witness [redacted] to touch his penis over his clothing and that she allowed her to touch him bare breast. Witness [redacted] said she touched Subject Rubalcaba's bare penis and allowed him to touch her breast over her clothing. At some point, Subject Rubalcaba negotiated with Witness [redacted] how much it would cost him to have her perform a sexual act on him. Subject Rubalcaba said the agreement was $40 for oral sex, while Witness [redacted] said the agreement was $60 for intercourse.

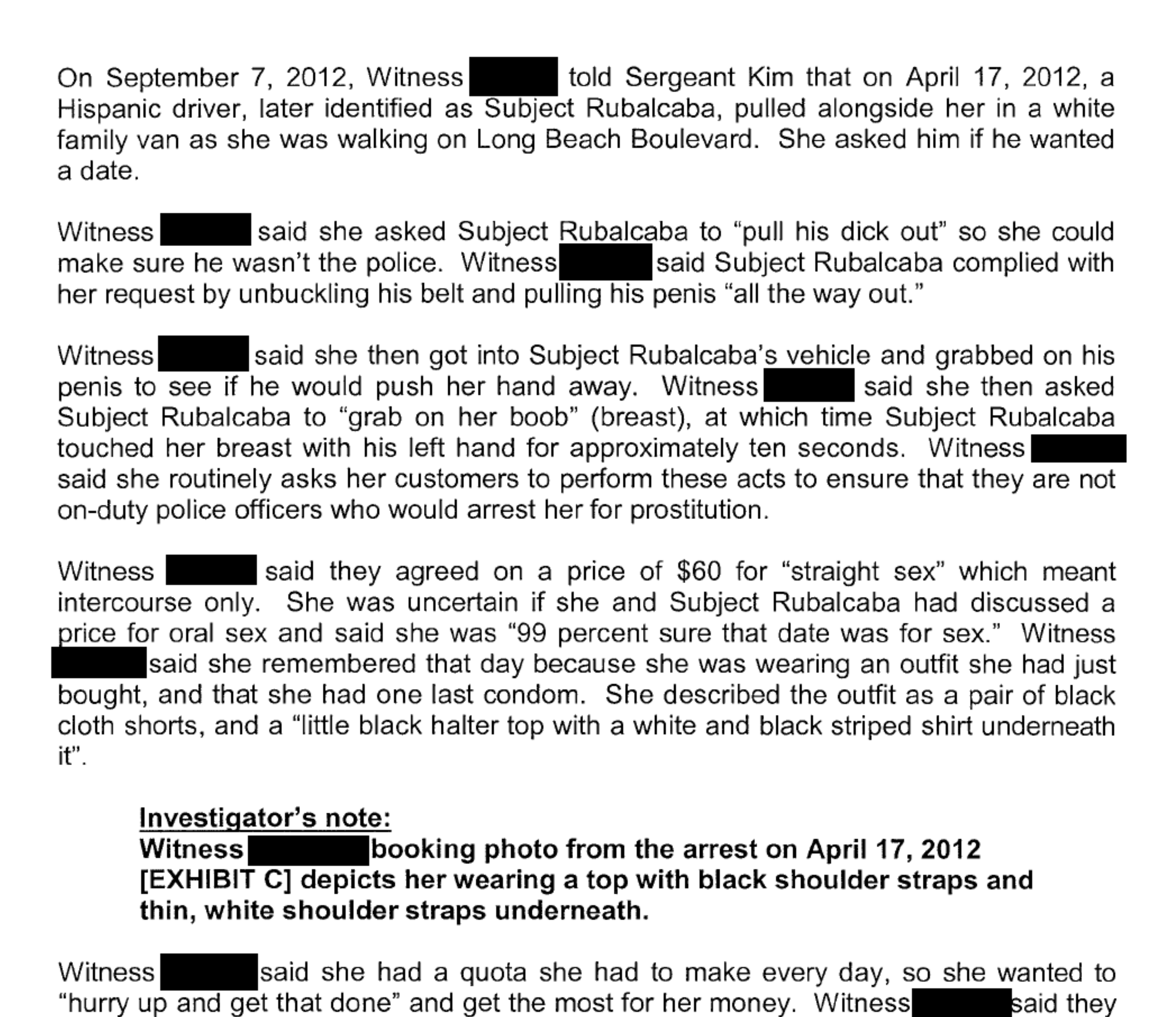
Subject Rubalcaba drove through various side streets east of Long Beach Boulevard and eventually into an alley, where he was detained by Sergeant Kenneth Roller of the Compton Station Crime Impact Team via a head-on traffic stop.

Sergeant Roller had been conducting a prostitution surveillance of the interaction between Subject Rubalcaba and Ms. [redacted] minutes prior to detaining them. Sergeant Roller had arrested Ms. [redacted] in the recent past for prostitution. At some point during the detention, Subject Rubalcaba advised Sergeant Roller that he was a Los Angeles County Deputy Sheriff assigned to Century Station. Subject Rubalcaba was handcuffed and placed in Sergeant Roller's patrol vehicle separate from Witness [redacted] at which time Sergeant Roller notified Lieutenant Roderick Armalin of this incident. Sergeant Roller arrested Subject Rubalcaba and Witness [redacted] and authored an Incident Report under URN #012-04569-2826-139 **[EXHIBIT A]**.

Subject Rubalcaba was booked at Carson Station at 1930 hours and was charged with [redacted], [redacted]. Subject Rubalcaba was issued a Notice to Appear at Compton Court on July 12, 2012 at 0830 hours, and subsequently released from Carson Station the same day.

On May 30, 2012, the Los Angeles County District Attorney's Office declined to file criminal charges against Subject Rubalcaba based on lack of sufficient evidence. Refer to the Charge Evaluation Worksheet **[EXHIBIT B]**.

Witness [redacted] statements:



On September 7, 2012, Witness [redacted] told Sergeant Kim that on April 17, 2012, a Hispanic driver, later identified as Subject Rubalcaba, pulled alongside her in a white family van as she was walking on Long Beach Boulevard. She asked him if he wanted a date.

Witness [redacted] said she asked Subject Rubalcaba to "pull his dick out" so she could make sure he wasn't the police. Witness [redacted] said Subject Rubalcaba complied with her request by unbuckling his belt and pulling his penis "all the way out."

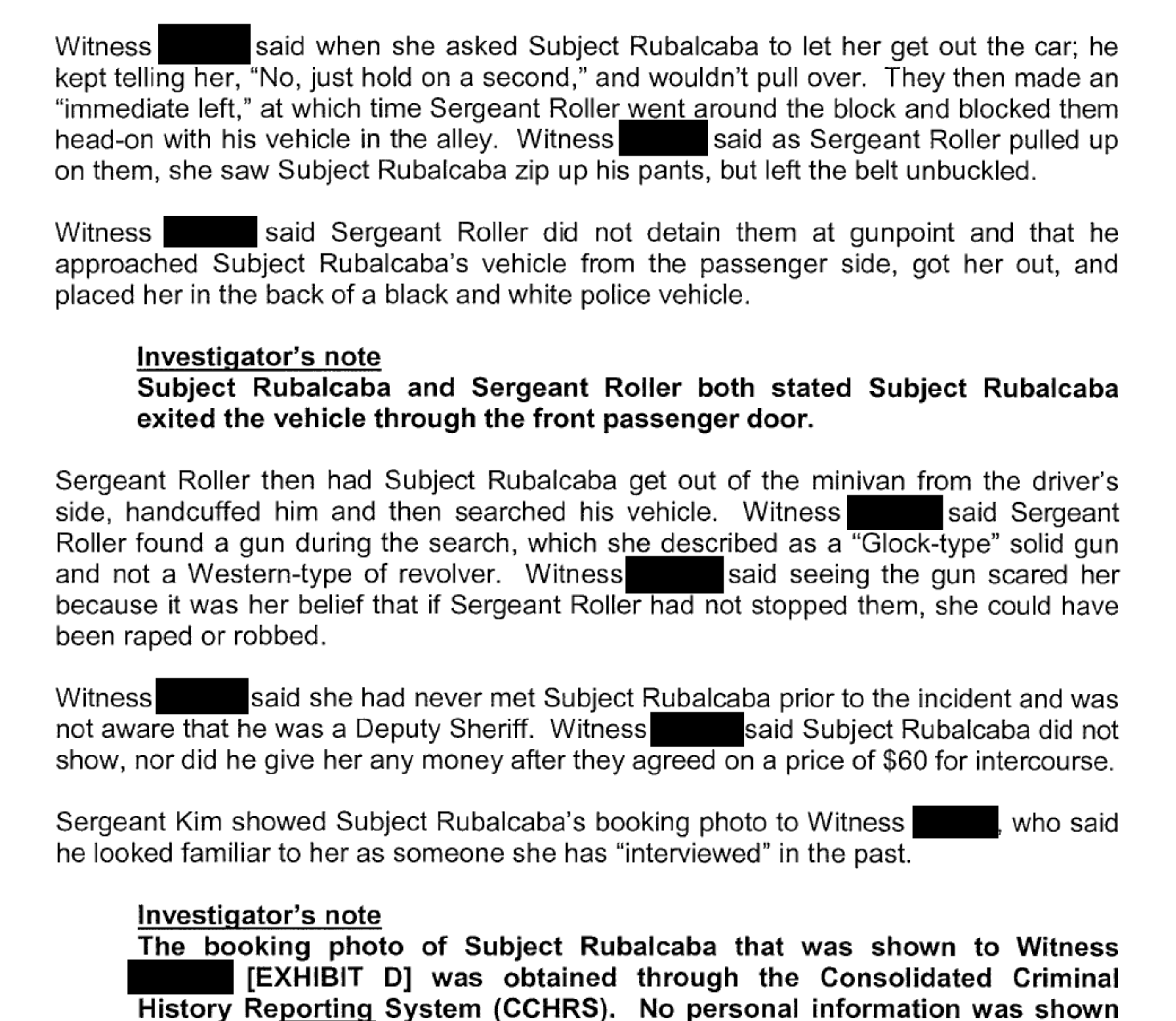
Witness [redacted] said she then got into Subject Rubalcaba's vehicle and grabbed on his penis to see if he would push her hand away. Witness [redacted] said she then asked Subject Rubalcaba to "grab on her boob" (breast), at which time Subject Rubalcaba touched her breast with his left hand for approximately ten seconds. Witness [redacted] said she routinely asks her customers to perform these acts to ensure that they are not on-duty police officers who would arrest her for prostitution.

Witness [redacted] said they agreed on a price of $60 for "straight sex" which meant intercourse only. She was uncertain if she and Subject Rubalcaba had discussed a price for oral sex and said she was "99 percent sure that date was for sex." Witness [redacted] said she remembered that day because she was wearing an outfit she had just bought, and that she had one last condom. She described the outfit as a pair of black cloth shorts, and a "little black halter top with a white and black striped shirt underneath it".

> **<u>Investigator's note:</u>**
> **Witness [redacted] booking photo from the arrest on April 17, 2012 [EXHIBIT C] depicts her wearing a top with black shoulder straps and thin, white shoulder straps underneath.**

Witness [redacted] said she had a quota she had to make every day, so she wanted to "hurry up and get that done" and get the most for her money. Witness [redacted] said they then made a right turn onto a "little side street," at which time she saw "the unmarked car" and recognized the officer (Sergeant Roller) because he had cited her recently. Witness [redacted] said when she told Subject Rubalcaba that she recognized Sergeant Roller who she was sure that he recognized her, Subject Rubalcaba replied, "No, you didn't. He wasn't even looking at us."

> **<u>Investigator's note</u>**
> **Subject Rubalcaba said he did not pass by Sergeant Roller's unmarked vehicle, nor did he see Sergeant Roller prior to being detained by him in the alley.**



Witness [redacted] said when she asked Subject Rubalcaba to let her get out the car; he kept telling her, "No, just hold on a second," and wouldn't pull over. They then made an "immediate left," at which time Sergeant Roller went around the block and blocked them head-on with his vehicle in the alley. Witness [redacted] said as Sergeant Roller pulled up on them, she saw Subject Rubalcaba zip up his pants, but left the belt unbuckled.

Witness [redacted] said Sergeant Roller did not detain them at gunpoint and that he approached Subject Rubalcaba's vehicle from the passenger side, got her out, and placed her in the back of a black and white police vehicle.

Investigator's note
Subject Rubalcaba and Sergeant Roller both stated Subject Rubalcaba exited the vehicle through the front passenger door.

Sergeant Roller then had Subject Rubalcaba get out of the minivan from the driver's side, handcuffed him and then searched his vehicle. Witness [redacted] said Sergeant Roller found a gun during the search, which she described as a "Glock-type" solid gun and not a Western-type of revolver. Witness [redacted] said seeing the gun scared her because it was her belief that if Sergeant Roller had not stopped them, she could have been raped or robbed.

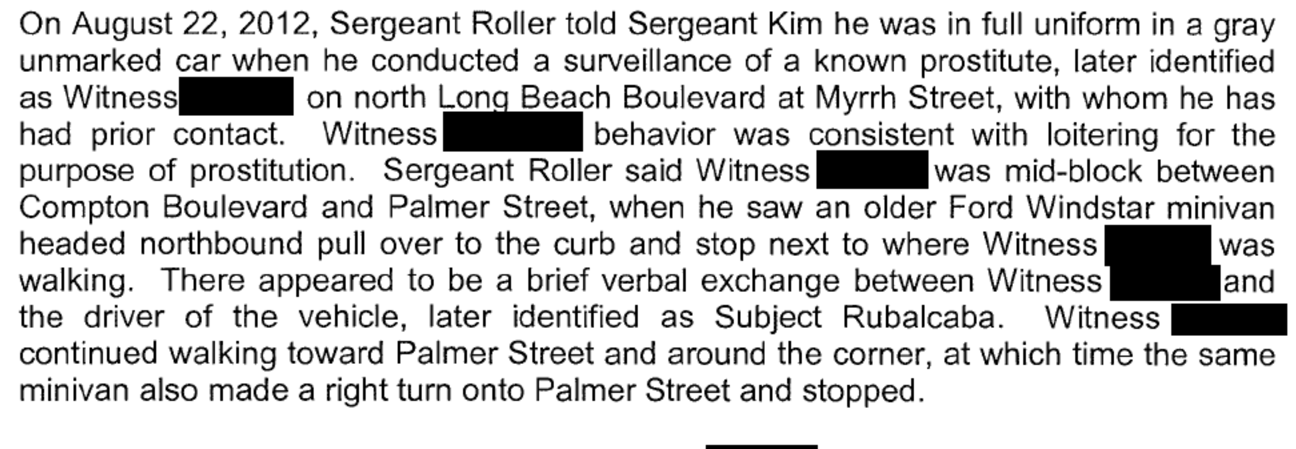
Witness [redacted] said she had never met Subject Rubalcaba prior to the incident and was not aware that he was a Deputy Sheriff. Witness [redacted] said Subject Rubalcaba did not show, nor did he give her any money after they agreed on a price of $60 for intercourse.

Sergeant Kim showed Subject Rubalcaba's booking photo to Witness [redacted], who said he looked familiar to her as someone she has "interviewed" in the past.

Investigator's note
The booking photo of Subject Rubalcaba that was shown to Witness [redacted] [EXHIBIT D] was obtained through the Consolidated Criminal History Reporting System (CCHRS). No personal information was shown to Witness [redacted].

Subject Rubalcaba's booking slip [EXHIBIT E] indicated that there was no cash deposited at the time he was booked.

Sergeant Kenneth Roller's statements:


On August 22, 2012, Sergeant Roller told Sergeant Kim he was in full uniform in a gray unmarked car when he conducted a surveillance of a known prostitute, later identified as Witness [redacted] on north Long Beach Boulevard at Myrrh Street, with whom he has had prior contact. Witness [redacted] behavior was consistent with loitering for the purpose of prostitution. Sergeant Roller said Witness [redacted] was mid-block between Compton Boulevard and Palmer Street, when he saw an older Ford Windstar minivan headed northbound pull over to the curb and stop next to where Witness [redacted] was walking. There appeared to be a brief verbal exchange between Witness [redacted] and the driver of the vehicle, later identified as Subject Rubalcaba. Witness [redacted] continued walking toward Palmer Street and around the corner, at which time the same minivan also made a right turn onto Palmer Street and stopped.

Sergeant Roller said it appeared that Witness [redacted] was walking up to the minivan from the passenger side, but then he lost sight of her. Sergeant Roller said he then went around the block the opposite direction, and drove northbound Bowen Avenue, at which time the same minivan drove southbound Bowen Avenue toward him. Sergeant Roller said he saw Witness [redacted] sitting in the front passenger seat of the minivan as he passed it. Sergeant Roller said he then went eastbound on Palmer Street to southbound Bullis Road. The minivan turned eastbound into an alley that paralleled Compton Boulevard. Sergeant Roller said he turned westbound into the same alley and activated his red lights as he came face to face with the minivan. During this time, it appeared that Subject Rubalcaba appeared surprised and mouthed the words, "Oh, shit."

Sergeant Roller said he approached the passenger side of the minivan and directed Witness [redacted] to stand in front of his radio car, which she did. He then directed Subject Rubalcaba out of the car on the passenger side, which he did.

Sergeant Roller said he noticed that Subject Rubalcaba's belt was undone, but that the zipper and button/snap of his pants were still fastened. Sergeant Roller said when he later asked Witness [redacted] about Subject Rubalcaba's belt, she exclaimed that she "didn't do that," and that his belt was undone when she got into the car.

Sergeant Roller said he recognized the shirt Subject Rubalcaba he was wearing to be a Baker to Vegas Challenge Cup Relay commemorative T-shirt that had the Century Sheriff's Station logo on it. Sergeant Roller said he asked Subject Rubalcaba if he had identification, at which time he said he had two wallets and it was established that Subject Rubalcaba was a Deputy Sheriff at that point. Subject Rubalcaba said he was assigned to Century Station, at which time he was placed in the back seat of the radio car.

Sergeant Roller said he checked the minivan to see if there was anything out of place because it was an older vehicle that had no license plates on the front or back, but only paper plates. The VIN plate on the dashboard was covered by a piece of paper. He noticed a vertical cloth pocket adjacent to the front driver's seat. He found a Beretta 92F inside it, which was verified to be Subject Rubalcaba's Department issued duty weapon. Sergeant Roller said he then notified his Lieutenant Roderick Armalin about the incident, who then directed him to notify the Captain of Century Station.

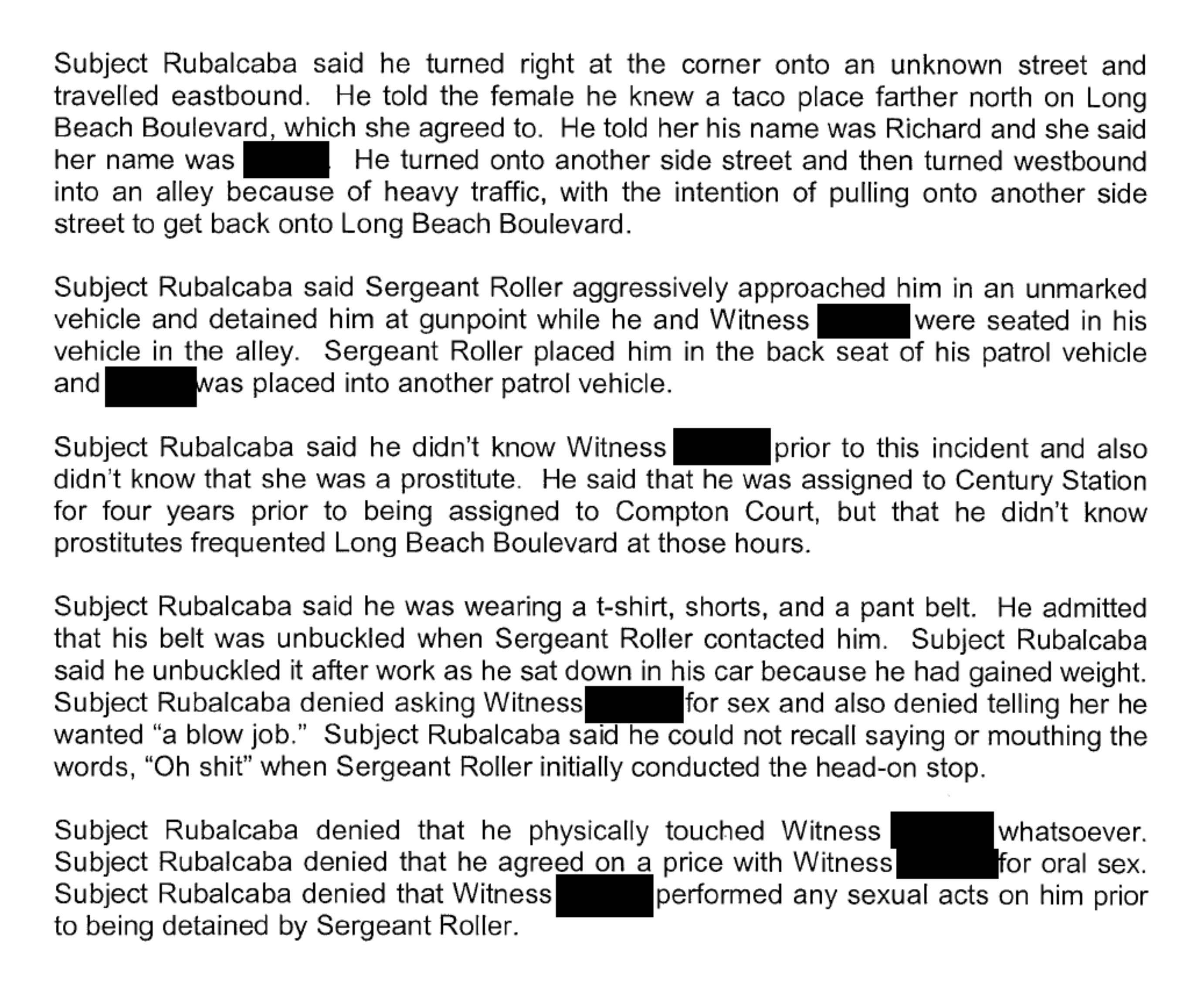
Sergeant Roller said at the time of the detention, Witness [redacted] told him Subject Rubalcaba pulled up next to her on Long Beach Boulevard and asked her for "a date," which is street slang for a meeting for sex exchange. She told Subject Rubalcaba to meet her around the corner. She said when Subject Rubalcaba pulled up and stopped, she approached the passenger side of the van. Witness [redacted] said Subject Rubalcaba asked her if he can touch her to which she replied, "Yes." Subject Rubalcaba reached over and touched her breast.

Sergeant Roller said as he ran the VIN number on the computer in his radio car, Subject Rubalcaba advised him that he was not assigned to Century Station, but that he was assigned to Court Services. Sergeant Roller said he then contacted his Lieutenant, Lieutenant Armalin and advised him of the updated information, at which time he was directed to notify Captain Anselmo Gonzalez of Court Services East Bureau.

Sergeant Roller said he was instructed to arrest Subject Rubalcaba and to book him at Carson Station. Captain Gonzalez arrived at Carson Station and met with Subject Rubalcaba. Subject Rubalcaba was issued a citation and then released from the Station the same day. Sergeant Roller said he authored an Incident Report under file #012-04569-2826-139 **[EXHIBIT A]**.

Subject Rubalcaba's statements:

In his first Administrative Interview on September 6, 2012, Subject Rubalcaba told Sergeant Kim he left Compton Court at the end of his shift at [redacted] hours and drove northbound on Long Beach Boulevard toward the freeway to go home. He saw an attractive young lady walking along Long Beach Boulevard with whom he wanted to talk to. He pulled over and asked her if she "wanted to get tacos with him" with the intention of having it lead to a romantic relationship. She said, "Yes," and got into his vehicle.



Subject Rubalcaba said he turned right at the corner onto an unknown street and travelled eastbound. He told the female he knew a taco place farther north on Long Beach Boulevard, which she agreed to. He told her his name was Richard and she said her name was [redacted]. He turned onto another side street and then turned westbound into an alley because of heavy traffic, with the intention of pulling onto another side street to get back onto Long Beach Boulevard.

Subject Rubalcaba said Sergeant Roller aggressively approached him in an unmarked vehicle and detained him at gunpoint while he and Witness [redacted] were seated in his vehicle in the alley. Sergeant Roller placed him in the back seat of his patrol vehicle and [redacted] was placed into another patrol vehicle.

Subject Rubalcaba said he didn't know Witness [redacted] prior to this incident and also didn't know that she was a prostitute. He said that he was assigned to Century Station for four years prior to being assigned to Compton Court, but that he didn't know prostitutes frequented Long Beach Boulevard at those hours.

Subject Rubalcaba said he was wearing a t-shirt, shorts, and a pant belt. He admitted that his belt was unbuckled when Sergeant Roller contacted him. Subject Rubalcaba said he unbuckled it after work as he sat down in his car because he had gained weight. Subject Rubalcaba denied asking Witness [redacted] for sex and also denied telling her he wanted "a blow job." Subject Rubalcaba said he could not recall saying or mouthing the words, "Oh shit" when Sergeant Roller initially conducted the head-on stop.

Subject Rubalcaba denied that he physically touched Witness [redacted] whatsoever. Subject Rubalcaba denied that he agreed on a price with Witness [redacted] for oral sex. Subject Rubalcaba denied that Witness [redacted] performed any sexual acts on him prior to being detained by Sergeant Roller.

Subject Rubalcaba said he told Sergeant Roller immediately, at the time Witness [redacted] was either in his vehicle or getting out of his vehicle, that he was a Deputy and that he had a weapon because he didn't want to get shot. He believed Sergeant Roller had stopped him for a serious felony.

Subject Rubalcaba said he had his duty weapon in his bag behind the passenger seat inside the car. He did not know the reason for being detained until he asked Sergeant Roller an hour after the initial contact, at which time he was told he was being arrested for "loitering with the intent." Subject Rubalcaba said he made no attempt at any time

during the detention to explain to Sergeant Roller that he was getting tacos with Witness Lalone.

On September 13, 2012, Subject Rubalcaba was interviewed a second time by Sergeants Patrick Kim and Victor Naranjo. Subject Rubalcaba recanted his initial interview and stated that the incident was a failure of his judgment and that he was untruthful during his prior Subject interview. Subject Rubalcaba described the entire incident as "a horrible decision," which included acknowledging that fact that he knew Witness [redacted] was a prostitute at the time that he contacted her, and that it was his intention to pay her for sex.

Subject Rubalcaba said he met Witness [redacted] at the southeast corner of north Long Beach Boulevard and Palmer Street. Subject Rubalcaba admitted that he did not ask Witness [redacted] about "going to get tacos" as he had mentioned in his previous Subject interview, but said that he asked her if she "wanted to go for a ride." Subject Rubalcaba said Witness [redacted] agreed, at which time she got into his vehicle and told him it would cost him $60 for sex. Subject Rubalcaba said he told Witness [redacted] that he did not want intercourse, but wanted "a blow job" (oral sex), and offered her $40, which she agreed to.

Subject Rubalcaba said Witness [redacted] then asked him if she could "touch" his penis, which he allowed her to do over his pants. Subject Rubalcaba denied that Ms. [redacted] told him to "show" her his penis and that he did not expose his penis to her.

> <u>**Investigator's note:**</u>
> **Witness [redacted] stated she asked Subject Rubalcaba to "pull out his dick (penis) out" (refer to Witness [redacted] transcript, page 2).**

Subject Rubalcaba reaffirmed his prior statement that he had unbuckled his pants prior to his encounter with Witness [redacted], when he initially got into his vehicle after work as a routine because of recent weight gain. Subject Rubalcaba denied that he ever undid or unzipped his pants.

> <u>**Investigator's note:**</u>
> **Witness [redacted] stated Subject Rubalcaba "unbuckled his belt and he struggled like he was hesitant to do it. But he still pulled "it" (his penis) out." She stated repeatedly that Subject Rubalcaba exposed his penis to her at her request (refer to Witness [redacted] transcript, pages 2 & 3).**

Subject Rubalcaba said Witness [redacted] then asked him to touch her breast as she pulled her bra down and exposed her bare breast. Subject Rubalcaba said he cupped Witness [redacted] left bare breast with his right hand for only one second.

<u>**Investigator's note**</u>
Witness [redacted] stated Subject Rubalcaba touched her breast for approximately ten seconds.

Subject Rubalcaba said he drove his vehicle eastbound Palmer Street to southbound Bowen Avenue and eastbound into an alley where he was then stopped head-on by Sergeant Roller in an unmarked radio car. Subject Rubalcaba said he did not see an unmarked radio car drive past him in the opposite direction prior to the stop. Subject Rubalcaba stated that it wasn't until he was being stopped by Sergeant Roller in the alley that he asked Witness [redacted] what her name was, at which time she told him, "It's [redacted]" and he told Witness [redacted] his name was Richard. Subject Rubalcaba said he did this to establish to Sergeant Roller that he and Witness [redacted] already had "a casual relationship."

<u>**Investigator's note**</u>
Subject Rubalcaba stated in his prior Subject interview that they "introduced" themselves by first name within seconds after Witness [redacted] got into his vehicle, rather than upon being detained by Sergeant Roller.

Subject Rubalcaba said it was at that time when Witness [redacted] said, "It doesn't matter anyway, I know him." Subject Rubalcaba said he understood that Witness [redacted] meant Sergeant Roller knew that she was a prostitute.

Subject Rubalcaba said at no time did Witness [redacted] make any motion or behavior that indicated to him that she wanted to get out of the vehicle. Subject Rubalcaba said he did not attempt to buckle his belt at the time Sergeant Roller initially detained him because he didn't want to cause Sergeant Roller any concern that he was possibly reaching for a weapon.

Subject Rubalcaba stated that he knew he was committing a crime at the time of the incident and that his actions were in violation of Department policy **(refer to Subject Rubalcaba's 09/13/12 interview, pages 21 & 22)**.